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COMMISSION ON HUMAN RIGHTS

Forty-sixth session

SUMMARY RECORD OF THE FIRST PART* OF THE 22nd MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 13 February 1990, at 3 p.m.

Chairman: Mrs. QUISUMBING (Philippines)

later: Mr. DITCHEV (Bulgaria)

CONTENTS

Advisory services in the field of human rights - presentation of the report of Mr. Gros Espiell, Expert on Guatemala

Statement by Mr. Sainsbury, Member of the United Kingdom Parliament and Parliamentary Under-Secretary for Foreign and Commonwealth Affairs

Implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief

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* The summary record of the second part of the meeting appears as document E/CN.4/1990/SR.22/Add.1

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The meeting was called to order at 3.15 p.m.

ADVISORY SERVICES IN THE FIELD OF HUMAN RIGHTS (agenda item 22)

Presentation of the report of Mr. Gros Espiell, Expert on Guatemala (E/CN.4/1990/45 and Add.1)

1. Mr. GROS ESPIELL (Expert on Guatemala) recalled that his mission with respect to Guatemala stemmed from resolution 1987/53 of the Commission on Human Rights. His mandate under the resolution had been twofold - to study developments in the human rights situation in Guatemala and to co-operate with the Centre for Human Rights with a view to providing the Government of Guatemala with assistance for the purpose of improving the situation. The report contained in document E/CN.4/1990/45 gave an account of his visits to Guatemala and of the contacts which he had had there and included his conclusions and recommendations. The addendum (E/CN.4/1990/45/Add.1) contained a kind of recapitulation of the various forms of assistance provided to the Government of Guatemala.

2. There was no need for him to make a detailed analysis of documents E/CN.4/1990/45 and Add.1, since the Commission could acquaint itself with their contents. He would merely comment on the last sections of document E/CN.4/1990/45. To begin with, he wished to stress two main points: first, the Government of Guatemala was a constitutional Government freely elected by the people and was not guilty of human rights violations; second, a difficult situation persisted in the country, characterized by serious violations. That dichotomy must be borne in mind if the human rights situation in Guatemala was to be properly understood. The solutions must be sought in the dual context of maintaining the constitutional Government and making a socio-cultural adjustment. On the one hand, if the constitutional system were to disappear, the situation would obviously be worse. On the other hand, a radical change in all economic, social and cultural conditions, as well as a transformation in people's mentality, would be necessary in order to replace the present culture of violence by a culture of human rights.

3. In his conclusions he had highlighted the following elements: on the one hand, enormous progress had been made in the development of the legal framework; on the other hand, although the Government had displayed the political will to protect human rights, so far it had not shown sufficient firmness in making the necessary changes, with the unfortunate result that the situation had deteriorated during the period covered by the report (E/CN.4/1990/45 and Add.1).

4. The report under consideration would be his last report for the Commission, since he now had to take up new duties in his own country. He therefore requested that his conclusions should be read with great attention. They shed light on a situation that was characteristic, in Latin America, of the transition from an autocratic to a democratic form of government. When such changes took place, difficulties arose to prevent constitutional Governments from attaining their objectives.

5. The complex and serious situation in Guatemala should continue to be studied by the Commission, which might wish to alter the present arrangements for considering that country's case by appointing, for example, a special rapporteur. However, as far as he was concerned, the title mattered very

little: the essential point was that someone must continue to monitor the situation closely. He requested that no change should be made in the assistance provided to the present Government of Guatemala, and that it should continue to be offered to the next Government, which, it was to be hoped, would be elected democratically. The decisions which the Commission would be called upon to take would have to be positive and really such as to strengthen the campaign for human rights in Guatemala. Finally, he asked the Commission to have confidence in the democratic Government of Guatemala, since international solidarity was essential in order to improve the human rights situation in that country.

6. The CHAIRMAN announced that Mr. Gros Espiell had just been appointed Minister for Foreign Affairs in the new Government of Uruguay and would take up his duties in March 1990. He was therefore unable to continue to fulfil the mandate which the Commission had conferred upon him. She thanked him on behalf of the Commission for the work which he had done on Guatemala over the previous three years and for his great contribution to the cause of human rights and to the United Nations over a period of 20 years.

STATEMENT BY MR. SAINSBURY, MEMBER OF THE UNITED KINGDOM PARLIAMENT AND PARLIAMENTARY UNDER-SECRETARY FOR FOREIGN AND COMMONWEALTH AFFAIRS

7. Mr. SAINSBURY (Member of the United Kingdom Parliament and Parliamentary Under-Secretary for Foreign and Commonwealth Affairs) said that although the Commission had had some important successes in the realization of human rights and fundamental freedoms for all, without distinction as to race, sex, language or religion - an ideal inscribed in the Charter of the United Nations - it had also experienced failures such as the absolution, at its previous session, of a country with a very disturbing human rights record. In the eyes of a world public which expected much of the Commission, such failures might eclipse the successes. The language of human rights was spoken in every corner of the world because the standards set by the Commission were truly universal.

8. The Commission therefore had a duty to examine all situations involving gross and systematic violations, without exception. Human rights were not bestowed by Governments; they were inherent in individuals and belonged no more to one cultural tradition than to another. Their implementation required a sustained effort by all Governments. Today, everybody knew which States approached human rights problems in good faith, and which States did not. When good faith was lacking, the Commission's debates were difficult; there was confrontation, and political pressures were seen to be exerted. Furthermore, the Governments which opposed having the situation in their countries examined by the Commission were the very ones which lacked the legitimacy conferred by the free consent of their peoples.

9. In that connection, the events which had occurred in 1989 in central and eastern Europe - and which should be considered by the Commission at the current session - showed that human nature did not tolerate abuses indefinitely. The same message was also arriving from other parts of the world, where new Governments had also realized that respect for human rights not only benefited individuals but also contributed to the health of the community and of the State itself.

10. Governments must show particular good faith with regard to respect for those rights which the Commission had recognized as being the most essential by appointing special rapporteurs for them: the right to life, including freedom from arbitrary execution or disappearance; freedom from torture; freedom of thought, conscience and religion; and freedom of expression. The progress made in respect for those rights in eastern Europe was occurring at a time when the effectiveness of the United Nations and its capacity to change and to reconcile was receiving growing recognition. It would be unfortunate if, just when the United Nations was proving its worth, the part of its system having primary responsibility for the pursuit of its human rights objectives were to prove wanting.

11. For its part, the Commission must, on the contrary, maintain its long tradition of fidelity to the Charter and to the Universal Declaration of Human Rights and its tradition of creativity and skill in reaching common solutions. In order to progress further, it would have to take account of certain essential points.

12. First, it must be explicit about its concerns; it must speak frankly to everyone, since, if it spoke out on certain situations but remained silent on others, it might lose its credibility.

13. Second, it was essential that the machinery set up, which was now more extensive and complex, should recover its effectiveness. In that connection, the role of the special rapporteurs was to be particularly emphasized, and any attempt to intimidate those who sought to communicate with them must be firmly condemned. Serious attention must also be given to the proper functioning of the human rights treaty bodies and to the effectiveness of the Sub-Commission, which really must be able to play the independent role accorded to it. The objectives of the advisory services programme and of the World Public Information Campaign for Human Rights had his full support, but mention should also be made of the United Nations training programmes, which had helped to strengthen institutions vital for the promotion of human rights, such as an independent judiciary. Assistance to torture victims was another notable practical measure, and he was pleased to announce a further contribution of £30,000 by the United Kingdom to the United Nations Voluntary Fund for Victims of Torture.

14. Third, the Commission, in order to speed up its procedures, ought to have some kind of intersessional mechanism, perhaps in the form of an intersessional role for its Bureau. It must also receive a larger share of the United Nations budget than the present figure, which amounted to less than one per cent of the total. However, enlargement of the Commission's membership was not necessarily a solution; in the absence of more satisfactory methods and additional resources, the Commission's effectiveness could even be impaired by it.

15. Furthermore, knowledge of human rights issues should not be considered to be the preserve of professionals or experts. The victims of violations obviously had a far more immediate knowledge of them. The task which members of the Commission faced as representatives of Governments was to devise policies which brought the aspirations of those victims to fruition, while being conscious of the fundamental links between economic policies, social policies and the realization of political rights. The knowledge of specific

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situations possessed by non-governmental organizations, which outspokenly informed the Commission of abuses and offences, was also important; the Commission would do well to emulate their candour. At the present time, when history was racing ahead, the Commission must know how to seize the opportunities offered to it in order to meet the hopes which millions of men and women in all countries placed in it.

IMPLEMENTATION OF THE DECLARATION ON THE ELIMINATION OF ALL FORMS OF INTOLERANCE AND OF DISCRIMINATION BASED ON RELIGION OR BELIEF (Agenda item 23) (E/CN.4/1990/46, E/CN.4/1990/NGO/5, E/CN.4/Sub.2/1989/32)

Work of the Sub-Commission

Special Rapporteur

16. Mr. D'ALMEIDA RIBEIRO, (Special Rapporteur), introducing his fourth report on the implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (E/CN.4/1990/46), gave a brief outline of developments since the submission of the previous report. Religious intolerance continued to be a very diversified phenomenon in its geographical distribution and in the forms which it took. His role was not to make accusations and to point to guilty parties, but to help to arrive at a better understanding of the circumstances in which violations of freedom of thought, conscience and religion took place. The most effective way of tackling the delicate and sensitive problems associated with religious intolerance was still constructive dialogue.

17. He had endeavoured to make the best possible use of the reliable information, preferably recent, which had been communicated to him. He had received a large number of replies to his questions and was satisfied with the constructive attitude shown by most Governments. The information obtained had come from a variety of sources, governmental and non-governmental, from organizations and individuals, from denominations or religious groups. Since the report had been drawn up, four further replies had been received - from Bulgaria, Romania, the People's Republic of China, and Venezuela. He would have been happier if the allegations of discrimination and intolerance and the replies which he had received in respect of them had been more specific; he therefore particularly thanked those Governments which had replied in detail and those which had taken the trouble to reply at length on their national legislation. He would study the replies himself in greater detail in a forthcoming report if his mandate was renewed.

18. In his fourth report, as in previous reports, he noted that the factors impeding the implementation of the provisions of the Declaration were still extremely complex and that the situation still gave cause for concern in a large part of the world, creating a need for increased vigilance. Intolerance could be the result of a deliberate policy pursued by the public authorities, or of economic, social or cultural tensions, or even of certain dogmatic interpretations which fomented strife between religious communities. Religious fanaticism remained a scourge in a large part of the world.

19. He had had talks with representatives of the Governments of the Syrian Arab Republic, Indonesia, and the Union of Myanmar, and he had held consultations with representatives of the Turkish and Bulgarian Governments on

the subject of the emigration of large numbers of Bulgarian Muslims of Turkish origin to Turkey. He wished to stress the positive outcome of the bilateral contacts that had taken place between those two countries, which had helped to improve the situation of the Turkish minority in Bulgaria.

20. In general, the welcome consequences which the policy of openness and transparency instituted in the countries of eastern Europe had had for religious freedom and public worship could not fail to be acclaimed. In that connection, spectacular changes that had been unthinkable only six months previously were being reported. He was thinking in particular of the relations of the countries of eastern Europe with the Holy See and with the State of Israel and of the improvement in relations between the Bulgarian State and its citizens of Turkish origin resulting from the withdrawal of the measures taken to Bulgarianize Turkish names. He also drew attention to what had been done for the Hungarian religious minorities in Romania, with free movement of persons between Romania and Hungary, the free importation of sacred books and the liberalization of public worship. The fall of the Berlin Wall had had not only political and social, but also moral and psychological repercussions that had made it possible for enormous progress to be made in the field of freedom of thought, conscience and religion. The preparation of new legislation on freedom of conscience in the new constitutions of the countries of eastern Europe was a further encouraging sign. Finally, the new kind of relations being established between the Government of the USSR and the Orthodox and Catholic Churches, as well as with the Vatican, were also encouraging and should be reflected in a definite improvement in the situation of the Uniates in the Ukraine and in Romania. As a result of all those factors, the future could be envisaged with greater optimism.

21. The replies which he had received under his mandate showed a great diversity in the way in which the right to freedom of conscience and religion was set forth and construed. Violations of the freedom of conscience and religion often led to violations of other human rights, such as the right to life, to physical integrity, to freedom and security of the person, to freedom of movement, and so forth; he had been able to ascertain that religious confrontations were accompanied by death threats, all too often put into effect, by intimidation, and by indoctrination or forced re-education, and that in many cases they had become a source of tension and destabilization in relations between countries, as well as a threat to international peace.

22. It was, however, noteworthy that many Governments were showing a greater willingness to implement the principles set forth in the Declaration. The information received by him referred to laws and legislative guarantees under which, in some countries, freedom of thought, conscience and religion was favoured and violations of it were punished. The legislation of certain States incorporated the provisions of the Universal Declaration of Human Rights or the International Covenant on Civil and Political Rights, or was based on them. Sometimes the right to freedom of religion was written into the Constitution; in other cases it derived from the Penal Code or other more specific legislation. The replies also drew attention to the measures envisaged to secure the implementation of legal standards and the appeal procedures open to victims of violations of the right to freedom of religion or belief, but a real effort was also being made to take specific action to implement the texts adopted.

23. The elimination of the problems that arose required a favourable political climate, and mutual respect and comprehension, as well as the implementation of socio-economic, educational and legislative measures. In that connection, a number of proposals were still relevant (E/CN.4/1990/46, paras. 117-123); the preparation of new international standards on the subject, the ratification of relevant international instruments, and the abrogation of national provisions and legislation contrary to the spirit and letter of the Declaration, as well as governmental practices contrary to national laws and international instruments. Finally, it was important that Governments should continue the dialogue with non-governmental organizations and religious communities. Furthermore, the United Nations advisory services in the field of human rights should be used to help interested countries to draw up standards and to put tolerance into practice through educational programmes, the media and other arrangements. Finally, the idea of establishing a working group on the study and implementation of freedom of religion, open to all religious denominations and non-governmental organizations (E/CN.4/1990/46, para. 118), was still also relevant.

24. Mr. MARGIOTTA BROGLIO (Italy) said that, in an increasingly unified and complex world in which the aspiration of all peoples to a lasting peace based on freedom, the rule of law and universal progress was a noteworthy feature, religion and belief were among the essential elements for achieving such a peace, because they were omnipresent in cultural life and had great potential in the social and political fields. Today, however, under the pressure of history, they reflected a new order of values.

25. Since the separation of churches from States, the political consciousness codified in international instruments had caused the world to move into a new age in which the difficult relations between neighbours were matched by a search for specific unity. The theological age was coming to an end and absolute deities were being replaced by respect for human rights.

26. Unfortunately, that did not mean that religious pluralism had been given a legal structure or that the fundamental equality of individual consciences was universally recognized. The report which had just been introduced (E/CN.4/1990/46) clearly showed the persistence of religious intolerance and discrimination through the picture which it painted of the state of freedom of religion and belief in the world.

27. The Commission also had before it a working paper prepared by Mr. van Boven (E/CN.4/Sub.2/1989/32) for the Sub-Commission on Prevention of Discrimination and Protection of Minorities, as well as Sub-Commission resolution 1989/23 in which the latter drew the Commission's attention to several issues and considerations concerning the elimination of religious intolerance. The Italian delegation congratulated the author of the working paper on the care which he had taken in making a compilation of provisions relevant to the elimination of intolerance and discrimination based on religion or belief; it had particularly appreciated his comments regarding the form which a new international instrument could take and the idea of preparing an additional protocol to an existing instrument (E/CN.4/Sub.2/1989/32, paras. 14 and 15). Such an idea would certainly meet the need to preserve and strengthen the consistency of the existing body of international human rights law, in keeping with General Assembly resolution 41/120, and would be in conformity with article 8 of the Declaration, while respecting the concept of the interdependence and indivisibility of all rights.

28. It would, however, have been better if the working paper had contained a reference to the preamble of the Charter of the United Nations, where it was stated that the peoples of the United Nations were determined to practise tolerance, and in particular if the many provisions of international humanitarian law regarding freedom of religion and worship and the very important UNESCO documents concerning cultural and religious identity and the protection of religious sites and monuments had not been excluded from the compilation (E/CN.4/Sub.2/1989/32, para. 7).

29. On the other hand, his delegation fully endorsed the author's insistence that attitudes and incidents of intolerance and discrimination were attributable not only to Governments but also to movements, groups and institutions based on religion or belief (E/CN.4/Sub.2/1989/32, para. 12). It also agreed with the Sub-Commission (resolution 1989/23, paras. 3 (c) and (d)) that it would be desirable to organize a seminar on the interrelationship between the enjoyment of the right to freedom of thought, conscience, religion and belief and the other human rights, as well as a global consultation on the positions and approaches of different religions and beliefs to human rights and fundamental freedoms.

30. Mr. d'Almeida Ribeiro's report (E/CN.4/1990/46) showed once again the complexity of the factors impeding the implementation of the 1981 Declaration and stressed that intolerance was often the result of socio-cultural tensions and certain dogmatic interpretations which stirred up incomprehension and hatred between different religious communities or promoted disagreements within them. An analysis of the information received by the Special Rapporteur proved that quite a number of violations were the result of the sectarian and intransigent attitude of the followers of a religion or belief and constituted a factor conducive to the destabilization of the international system, as well as a source of tension and conflict between States. The Special Rapporteur rightly expressed his concern regarding the sentencing to death of an author of a book considered to be offensive by the followers of a great religion, and he emphasized the seriousness of a decision which, if executed, would infringe the principles of international law and constitute a gross violation of universally accepted human rights standards.

31. Italy wished to draw attention to the persistence of other violations involving the censorship of religious books by public authorities and the censorship of theological research by religious hierarchies. It welcomed the opinion of the Council of State of a Member State on the issue of the wearing of religious symbols at State schools, which was fully in keeping with the Declaration in that it recognized that the wearing of such symbols was not, in itself, incompatible with the secularity of the State, in so far as it amounted to an exercise of the freedom of religion, but that, at the same time, the exercise of such a freedom could be detrimental to the freedom or dignity of the pupil or members of the educational community or interfere with teaching and the educational role of teachers.

32. Like the Special Rapporteur, Italy also welcomed the gratifying results which the policy of openness and transparency was having for freedom of religion and worship in eastern Europe. The dialogue started between Governments and religious authorities in the countries concerned and the changes that had taken place in relations between the State and the churches as a result of the recognition of the full freedom of the different

denominations to appoint their own religious leaders encouraged the Commission to continue the action which it had taken to ensure that the principles of the 1981 Declaration were implemented. His delegation wished to stress the very important role played in that development by the Head of the Catholic Church, the first Pope to have come from the East, the Pope of religious freedom and human rights, the Pole Karol Woytjla.

33. The whole of history was marked by religious persecutions and wars of religion, which were, unfortunately, still occurring. Quite a number of countries and regions were experiencing conflicts arising from intolerance and lack of mutual respect among religions, which all too often led to violence. The role of the Commission was to approach those problems in a constructive spirit, to draw up texts to strengthen those already in force, to secure the scrupulous implementation of existing international instruments, to promote inter-denominational dialogue, and to induce religious leaders to urge the conflicting parties to stop the violence and to restore peace. When a community was in a state of conflict, its beliefs and dogmas hardened, and when it was in the majority or in power, it might oppress the other communities, whereas when it was a minority it might be treated by the other communities with increasing mistrust. Consequently, churches and religious societies, as well as organizations of persons holding non-religious beliefs and the institutions which disseminated those beliefs, had a primary duty to be tolerant.

34. As the Special Rapporteur showed in document E/CN.4/1990/46, quite a number of incidents brought to his attention were apparently the result of the sectarian and intransigent attitude of followers of a particular religion or belief who demanded a literal interpretation of certain precepts without allowing for the context in which they had been established. In recent years such a display of fanaticism had been at the root of tensions and conflicts between civil societies and had led to a clear weakening of the right to freedom of religion or belief. Since legal mechanisms alone could not be expected to eliminate it, the active collaboration of religious communities would be required, as well as inter-denominational dialogue and the education of the young in a spirit of tolerance and freedom of conscience, whether religious or non-religious. Only with the support of a large number of denominations reflecting a great diversity of religious and philosophical beliefs could the Commission obtain sound political and legal results, after a long period of work aimed at eliminating all forms of intolerance and discrimination based on religion or belief, of which the 1981 Declaration was the first achievement.

35. In conclusion, the Italian delegation considered that tolerance was not a contemplative approach but a dynamic attitude which consisted in foreseeing, understanding and promoting what ought to be. The diversity of religions and human cultures was a reality of the past, the present and the future. The only requirement that could be made of it was that it should realize itself in forms in which each religion or culture helped to enhance the magnanimity of the rest.

36. Mr. SMITH (United States of America) said that the right of all individuals to wonder about the meaning of life and to ask other metaphysical questions could not be refused, limited or annulled by Governments. The quest for knowledge of the Supreme Being and of relations with God was

inherent in the human condition and must be given the opportunity and freedom to flourish. Persecution and harassment of believers were completely unacceptable in a civilized society, since they were acts of barbarism. The United Nations must urge Governments that subjected believers to discrimination, maltreatment or abuse to correct their practices. History was replete with examples of acts of courage and heroism performed by human beings inspired by faith, who had campaigned against social injustice, built hospitals, orphanages and schools, and even established lasting régimes. Society and civilization had an incalculable debt to them.

37. The history of the United States of America had been built on religious tolerance: a large number of the country's first settlers and great thinkers had sought and found in the United States the promise of religious diversity and freedom. Even today, many immigrants came to the United States in the hope of being able to practise their beliefs freely. Faithful to its historical tradition, the United States received them with open arms, while deploring the hostile climate which had obliged them to flee.

38. Modern civilization, so advanced in many fields, was unfortunately disfigured by the systematic repression of religious belief and expression by many Governments. Millions of faithful had become great spiritual figures fighting against injustice in their countries, and many of them had gone to martyrdom for having accepted torture, privations and even death rather than make a pact with tyranny. The Commission could not remain insensitive to their fate and must make its voice heard to demand that religious persecution and intolerance cease and that there should be no more prisoners of opinion. The time had come for it to wage a campaign in defence of freedom of conscience, religion and belief.

39. The time had also come to take all possible steps to implement the provisions of the Universal Declaration of Human Rights concerning freedom of thought, conscience and religion, as well as the provisions of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief. Those provisions provided not only for the right to freedom of conscience, but also for the right to meet in places of worship or in private; not only for the right to practise a religion, but also for the right to do so without harmful consequences for the individual's position in society or his capacity to hold public office; not only for the right to possess sacred books, but also for the right to write, publish and circulate religious publications; not only for the right to study and profess a faith, but also for the right to teach a religion to children and to future members of the clergy; and not only for freedom to communicate with persons of the same faith, but also for freedom to communicate, within the same country and abroad, with persons holding different views.

40. To proclaim a standard was not sufficient, since nothing guaranteed that its implementation would be binding or that its exercise would be protected by law. The Special Rapporteur and the Commission had the principal roles to play in that respect by ensuring that the standard was progressively converted into reality and by using their moral influence to hasten the end of intolerance. That would require much dedication and commitment, but the Special Rapporteur must be encouraged to continue to monitor the repeated instances of religious intolerance in the world by making inquiries of Governments in respect of specific complaints and by formulating general observations and recommendations on what was an essential human right.

41. It was deeply disappointing that, despite the repeated requests made by the General Assembly, the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief had not yet been published and distributed in the six official languages of the United Nations; it was important to make good that shortcoming without delay. The dissemination of the Declaration to Governments, action groups and religious organizations should help to achieve a better understanding of the full implications of the freedoms concerned.

42. His Government saw encouraging signs and grounds for hope in the fact that certain countries which had severely repressed religious practices in the past now seemed to be more tolerant. That was the case with the Soviet Union, where several imprisoned believers had been freed and where no more believers appeared to have been arrested or sentenced to long terms of imprisonment under anti-religious legislation. It was to be hoped that certain other prisoners who had been sentenced primarily because of their religious convictions would likewise be released. Furthermore, churches and monasteries which had been closed for 70 years had been re-opened for worship.

43. In the USSR, as in many other countries, legal and administrative arrangements to control religion remained in place and, although ameliorations had taken place, they were often only reversible concessions and not systemic reforms guaranteeing freedom of religion and belief. In particular it was to be hoped that the new legislation on the subject which was shortly due to be considered by the Supreme Soviet of the USSR would recognize for all religious groups at the very least the rights to freedom of assembly, property and employment which were guaranteed to any civic organization, without imposing restrictions on freedom of conscience or attenuating it by ambiguities of language, as seemed to be the case in the drafts of the bill currently under study. Any new legislation on the subject should recognize complete freedom of religion in all fields.

44. It was therefore to be hoped that the countries of eastern Europe, which had undergone breathtaking changes in the past few months, would establish irreversible guarantees of religious tolerance. In countries like Czechoslovakia, Bulgaria and Romania the dissemination of religious literature had been forbidden or restricted, the religious instruction of children had been inhibited, the charitable programmes of religious groups have been subjected to restrictions, and not enough clergymen had been trained to meet needs. The announcement of reforms in those countries, like the proposals for new legislation on the churches envisaged in Czechoslovakia, was, however, encouraging. The countries concerned had a historic opportunity to relinquish all State supervision of the churches, which was one of the critical aspects of freedom of religion. The Provisional Government of Romania should, for example, abolish the requirement for national registration imposed upon religious organizations and churches.

45. Also, the National Assembly of Bulgaria must be encouraged to base itself on the Universal Declaration of Human Rights and the Helsinki and Vienna CSCE agreements when it revised the constitutional provisions and laws applicable to religion in response to the pressing demands of grass-roots organizations. It was gratifying to note that the Bulgarian Government had already announced that it was abandoning its recent campaign to assimilate its Turkish ethnic minority by force through the closing of mosques and the forbidding of certain

Islamic customs. The Turkish minority must be free to enjoy the full benefits of its cultural and religious heritage. The world community and the Special Rapporteur should continue to monitor the situation in Bulgaria.

46. Other Governments were pursuing policies of active opposition to all organized religion, considering religion to be an obstacle to total submission to the State. In particular, mention should be made of the arrests and maltreatment to which certain members of the Christian minority were subjected in Nepal, where legislation limited the free exercise of any religion other than Hinduism. It was also illegal for any Hindu to convert to another religion, and for any person to convert another person to a different religion, in direct violation of article 18 of the Universal Declaration. Some 200 Christians were currently appearing before the Nepalese courts, and a number of others were in prison. The Special Rapporteur should continue to investigate the complaint made concerning them.

47. In the Islamic Republic of Iran, although there had been no reports of any Baha'i adherent being executed for the past year, the Baha'i community was still not allowed to practise its rites, to possess religious property, to open religious schools, to choose its own leaders, or to form organizations.

48. The harassment, arrests and imprisonment of believers that had been taking place in China since 1949 had not ceased during the past year. Unofficial Catholic and Protestant churches had been closed and their ministers had been arrested. Quite recently, the arrest of several Catholic bishops, deacons and laymen had been announced. Buddhist monks had been arrested in Tibet, and the number of believers authorized to enter the monastic orders was limited by the Government. The Special Rapporteur should also look into the situation in China.

49. Despite those cases of religious intolerance, his delegation considered that there were grounds for optimism as to the future of the efforts being made in the world to secure greater respect for freedom of religion and conscience. The Declaration adopted at the United Nations constituted a solid basis for Member States that decided to reform their laws and practices. There was an increasing awareness in the world that tolerance and respect for religions and beliefs were essential to a State if it was to win the respect of its own citizens and of Members of the United Nations. It was therefore all the more fitting that the Commission and its Special Rapporteur should renew their efforts. The Government and people of the United States, for their part, would be steadfast in promoting what was an essential right of the human person.

50. Ms. FOULDS (United Kingdom) said that intolerance and discrimination based on religion or belief had existed for centuries in all parts of the world; tolerance had become more necessary than ever. The explosion of technology had transformed the way people lived and communicated; with modern means of transport, which facilitated freedom of movement, and with the development of telecommunications and information technology, the spoken and written word could reach all parts of the world, so that every individual was in greater contact than ever before with cultures, religions and beliefs different from his own. Everyone had a duty to respect those differences, to practise tolerance and to implement the principles of freedom and of respect for the views of others.

51. Unfortunately, according to the latest report by the Special Rapporteur (E/CN.4/1990/46), intolerance in matters of religion and belief continued to exist all over the world. Although it could sometimes be attributed to economic, social and cultural tensions and differences, that was not always the case and it all too often resulted from deliberate policies pursued by Governments.

52. There were Governments which, while nominally adhering to the principles of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief and other international instruments, pursued, in violation of their own legislation, policies and methods characteristic of religious intolerance. Other Governments - and that was even more disturbing - displayed such indifference to the principles of the Declaration that they promulgated and applied legislation that was explicitly contrary to both its spirit and letter and deliberately practised discrimination against part of their population for reasons of religion or belief. Furthermore, a large number of incidents reported to the Special Rapporteur involved clashes between members of different religious communities, and in other cases the intransigence of extremist elements had led to outbursts of violence. The Governments of certain countries could not be expected to protect their populations when clashes occurred if they themselves set the example by practising, for religious reasons, deliberate discrimination against their own nationals.

53. Her Government had long been a supporter of the United Nations Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, and it encouraged all Governments to respect the principles of the Declaration by making, if necessary, drastic reforms, since only the full implementation of all the standards set forth in the Declaration was acceptable.

54. As in the previous reports, the Special Rapporteur had drawn attention to violations of the principles of the Declaration affecting a whole series of rights and freedoms such as the right to life, freedom of movement, and freedom of opinion and expression. It was therefore disturbing to note the reports of a recrudescence of cases involving violations of the right to life connected with contempt for freedom of religion and belief. The number of extrajudicial killings due to that cause had increased. Moreover, it was intolerable that many persons should still be detained, persecuted or expelled from their countries solely for reasons of religion or belief.

55. Nevertheless, her Government noted with satisfaction that some States were determined to eliminate obstacles to freedom of thought, conscience, religion or belief. The significant progress made in eastern Europe was especially encouraging. The policy of openness was clearly having a beneficial effect. The dialogue that had been initiated between the Government of the USSR and the Orthodox and Roman Catholic Churches was particularly noteworthy. Also welcome were the improvements recorded in other countries which had amended their policies on matters of religion and conscience, as well as the increased co-operation of most States with the Special Rapporteur; on the other hand, it was deplorable that some countries had failed to reply to the latest communications transmitted to them and that one or two of them should even have seen fit to disregard all the communications sent to them previously.

56. Her Government fully endorsed the Special Rapporteur's recommendation that advantage should be taken of the United Nations advisory services to promote respect for freedom of religion and belief, and it recognized the important role played by non-governmental organizations. Nevertheless, the United Kingdom did not share the Special Rapporteur's view that the persistence of religious intolerance and discrimination called for the preparation of a new instrument. The rights in question were already suitably defined in the International Covenant on Civil and Political Rights, which authorized no derogation from the right of freedom of religion, and in the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief. However, the Commission had a duty to ensure that the standards set forth in those instruments were universally recognized and applied. Her Government thanked the Special Rapporteur for his excellent report and recommended that his mandate should be renewed so that he could continue his work.

57. Mr. Ditchev (Bulgaria) took the Chair.

58. Mr. CHAMME (Botswana) noted with satisfaction that the Special Rapporteur had not merely given a clear presentation of the assignment entrusted to him by the Commission and examined instances and situations inconsistent with the spirit and letter of the Declaration, but had also recommended specific remedial action to be taken by the authorities concerned.

59. It was gratifying to note that the political will to promote all rights and freedoms set forth in the Universal Declaration was to be found in all countries, even though the degree of real protection varied from one country to another. It was encouraging that all countries professed to be democratic, since, while it was important for the individual that his rights and freedoms should be affirmed in the constitution, it was even more important for him that legal texts should be effectively implemented.

60. It must be acknowledged that certain legal provisions, certain historical factors or certain methods applied by Governments were impeding the implementation of the Declaration, but they should not necessarily be regarded as deliberate acts of authorities; they might be mere shortcomings due to ignorance or unconscious prejudice. In that connection, it was important to stress the role of education in efforts to eliminate intolerance. The authorities should therefore take remedial action when the harmful effects of such factors were reported. The Commission should encourage the exchange of information between the Special Rapporteur and national authorities, which should make it possible to determine whether forms of religious intolerance and discrimination existed in any particular country. If they did exist, it was incumbent upon the authorities to take the appropriate measures, since failure to do so would tarnish the country's image and damage its credibility as a democracy.

61. Violations of the right to freedom of thought, conscience, religion or belief could give rise to violations of other rights and freedoms of the human person. According to the Special Rapporteur, religious intolerance and discrimination were reflected in violations of the right to life and of freedom of movement, opinion and expression. The State had a duty to guarantee those rights and freedoms not only to the majority of its citizens, but also to the members of minorities.

62. Religious intolerance could be a source of tension between States. Mutual tolerance must be displayed by States that professed different religions or beliefs not only within their territories, but also in their inter-State relations as a contribution to mutual comprehension and peace among nations. Religious conflicts could and must be avoided at the present stage of political and economic development. Tolerance must also be shown to those who wanted to remain free thinkers and subscribed to no particular form of religion.

63. Freedom of religion and belief did not mean disorder. When the exercise of such freedom threatened to infringe the very rights which it was intended to protect, the State should not shy away from its responsibilities as the guarantor of all human rights. It must, however, be pointed out that freedom to practise a religion must be subject only to such limitations as were prescribed by law and were necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others, as indicated in article 1(3) of the Declaration.

64. Mgr. MULLOR (Observer for the Holy See) said that 1989 had marked a turning-point in the field of religious freedom for a considerable number of European countries. The promises made at Helsinki and confirmed at Madrid and Vienna had begun to be fulfilled, and the repeated recommendations made by the Commission on Human Rights had met with a response from political leaders of goodwill. The far-reaching political and social changes under way now needed to be translated into laws and regulations so that the letter could be added to the spirit of the reforms.

65. Mr. Gorbachev's visit to his Holiness John Paul II and the preliminary freedom which the Catholic Church was beginning to enjoy in various countries of eastern Europe sufficed to show the extent and depth of the changes that had taken place.

66. By welcoming the President of the Supreme Soviet of the USSR, the Pope had interpreted the aspirations of millions of Soviet citizens by expressing the hope that the Freedom of Conscience Bill shortly to be laid before the Supreme Soviet would help to guarantee to all believers the full exercise of the right to freedom of religion, from which the other freedoms stemmed. Subsequently, in a message to the whole world, he had also appealed to all those who had the destiny of mankind at heart to work for its material and spiritual elevation, for the overcoming of international tensions and for an end to inter-bloc confrontation, while furthering the advent of universal solidarity.

67. In inviting the Pope to his country, President Gorbachev had declared that all peoples of different beliefs living in the Soviet Union had the right to satisfy their spiritual needs, that the Freedom of Conscience Bill would soon be adopted, and that the Soviet Union was in the process of learning, within the context of perestroika, the difficult but essential art of global co-operation and the consolidation of society on a renewed basis.

68. Those two statements revealed a convergent approach towards a feeling of universality which was characteristic of the exercise of the freedom of religion, which would be lived by Catholics in respect for other Christian denominations and for communities inspired by a faith other than that based on the Gospel.

69. The new situation, which particularly affected Catholics of the Eastern Rite, constituted an important test bench both for freedom of religion and for freedom of conscience and the substantiality of the ecumenical dialogue.

70. The States concerned should guarantee full freedom to the Catholic communities of the Eastern Rite, who had long been forced into clandestinity in their territories, and to other denominations and rites. Millions of Catholic faithful who wanted to be united with their legitimate bishops and in communion with the Bishop of Rome aspired to that freedom, just as they wanted to become full citizens in their own countries in order to help build a democratic and prosperous future really worthy of man.

71. However, freedom of religion could not be authentic without freedom of conscience for every believer, as had been proclaimed by the Second Vatican Council in a document of historic scope. In the case of the Catholics of the Eastern Rite, respect for freedom of conscience was a prerequisite for the exercise of their religious freedom. They were merely asking for the recognition of a basic human right, after the ordeals which they had experienced for long decades.

72. His delegation expressed its confidence in the development of the social and political process and in the goodwill of senior civil and religious leaders. The Holy See was ready to co-operate with the civil authorities and to support any initiative designed to protect and harmonize the rights and duties of the person and of peoples with a view to safeguarding peace in Europe and the world. The neutral approach which the civil authorities were to observe in future, while respecting the existence of religion and the rights of all believers, would be a guarantee of social harmony and democratic progress.

73. The Pope had also reaffirmed the desire of Catholics to co-operate with their brethren in the Orthodox Church, whose heritage they shared to a large extent, with a view to securing the advancement of man within the framework of a renewed ecumenical commitment, in the expectation that the unity desired by Christ for his Church could be reconstituted. The dialogue currently under way between the Catholic Church and the Orthodox Church constituted a stage of reflection and peace on the road to Christian unity.

74. In reaffirming its esteem for the work done by the Commission and its Special Rapporteur, his delegation declared that it considered their activities to be among those which had effectively promoted tolerance and freedom; it was important that they should be continued and developed in those areas of the world where many believers were awaiting a real recognition of their right to freedom of conscience and religion. The programme outlined by the representative of the Holy See at the forty-fifth session of the Commission, designed to enable everyone to pursue freely his quest for truth, to follow the voice of his conscience, to adhere to a religion of his choice and to profess his faith publicly in the context of voluntary membership in an organized religious community, called for a commitment on the part of the Commission and a clear willingness to reform on the part of a large number of current political leaders.

75. **Mr. CUNHA ALVES** (Portugal) said that man had always had religious feelings and that the diversity of religions and beliefs had often given rise to intolerance and persecution. Even though the situation had recently

improved as a result of a more open-minded approach by some denominations, fanaticism was continuing to cause serious damage to society. Avid for power, certain groups were using religious differences for political ends.

76. It was regrettable that, at a time when Europe and other regions of the world were experiencing profound changes, the right to freedom of thought, conscience and religion continued to be all too often flouted. Although included in the Universal Declaration of Human Rights, in the International Covenant on Civil and Political Rights and in the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, freedom of thought, conscience and religion was still not being respected by many States. In its resolution 1986/20, the Commission on Human Rights had therefore decided to appoint a special rapporteur to examine incidents and governmental actions inconsistent with the provisions of the aforementioned Declaration and to recommend remedial measures for such situations. His delegation was convinced of the value of the work done by the Special Rapporteur, Mr. Almeida Ribeiro, whose fourth report (E/CN.4/1990/46) it had read attentively. Governments must do more to co-operate with the Special Rapporteur to enable him to carry out his mandate in full. In that connection, it was regrettable that some Governments had failed to reply to the requests for information sent to them by the Special Rapporteur and that some others were content to deny the allegations of violations of human rights or to reply to them in general terms.

77. In his report the Special Rapporteur stressed that current manifestations of religious intolerance had their roots in the existence of legal provisions contrary to the spirit of the Declaration, governmental practices contrary to the very provisions of national legislation prohibiting discrimination based on religious grounds, and the persistence of specific political, economic and cultural factors. The activities of extremist or fanatical groups were very disturbing, not only because they affected the freedoms and rights of minority communities in the countries directly concerned, but also because they constituted a destabilizing factor at the international level and a source of tension and conflict between States. Like the Special Rapporteur, his delegation welcomed the positive impact which the policy of openness and transparency had had on religious freedom and practices in eastern Europe, as well as the amendments which certain countries had made to their constitutions to bring them more into line with international instruments.

78. Under the 1976 Portuguese Constitution, amended for the second time in 1989, freedom of conscience, religion and worship was inviolable. Even in the case of a state of emergency no one could be prosecuted, deprived of rights or exempted from civic obligations or duties because of his religious beliefs or practices, no one could be questioned about his religious beliefs or practices, and churches and religious communities were separated from the State and free to organize and practise their own ceremonies and worship as they saw fit. Those provisions therefore guaranteed the various rights affirmed in the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief.

79. The international community ought to give careful consideration to the possibility of adopting a binding international instrument on freedom of religion or belief. In that connection, the Special Rapporteur had pointed out that the adoption of such an instrument could give broader and deeper

meaning to international protection against manifestations of intolerance based on religion or belief, and Mr. van Boven had considered that the preparation of such an instrument ought to be accompanied by consultations among interested groups, organizations and movements from across a broad socio-political and religious spectrum (E/CN.4/Sub.2/1989/32). The Commission's attention should also be drawn to Mr. Alston's report on the effective implementation of international instruments on human rights, in which it was stated that in certain circumstances it would be advisable to draw up a new protocol to the International Covenant on Civil and Political Rights, the implementation of which would be monitored by the Human Rights Committee. Whatever the case, such a new instrument on the subject should, in accordance with General Assembly resolution 41/120, be consistent with the existing body of international human rights law, attract broad international support, and provide realistic and effective implementation machinery.

80. His delegation hoped that all men, whether acting as individuals, members of a group or statesmen, would realize the need to respect the right to freedom of thought, conscience and religion. Individuals, groups, Governments and nations must all serve the unique cause of respect for all human rights and fundamental freedoms.

81. Ms. SINEGIORGIS (Ethiopia) said that intolerance and religious fanaticism had been, and still were, sources of tension and wars in many societies. The Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief adopted by the General Assembly in 1981 had marked a new step forward towards universal respect for human rights and fundamental freedoms and should be fully implemented by all. In that connection, Ethiopia had followed very carefully the work done by Mr. d'Almeida Ribeiro, the Special Rapporteur appointed by the Commission to examine incidents and governmental actions in all parts of the world deemed to be inconsistent with the provisions of the Declaration. In his fourth report (E/CN.4/1990/46) the Special Rapporteur had expressed his concern regarding the persistence of serious violations of the rights set forth in the Declaration and recommended that an international instrument dealing explicitly with the elimination of such violations should be drawn up. That recommendation deserved careful consideration.

82. In Ethiopia, Christians and Muslims had always lived together harmoniously in a spirit of mutual comprehension and tolerance, as had Ethiopians belonging to different national and ethnic groups. Since the establishment of a lay State by the Ethiopian revolution of 1974, the Government had scrupulously respected the equality of religions, which was guaranteed by the 1987 Constitution. Being perfectly aware that a right could not be respected merely because it was included in a constitution, the Ethiopian Government took pride in scrupulously ensuring that the constitutional provisions on freedom of religion were fully implemented. It should, however, be pointed out that the Government's task was considerably facilitated by the absence of any deep-rooted historical antagonism between the followers of different religions and that the few incidents which had occurred, or were still occurring, were due to external interference.

83. Needless to say, Ethiopian patriotism would find a way, as it had always done, to overcome the difficulties created by outsiders with a view to undermining the historical unity of the ancient land of Ethiopia.

84. Ethiopia was firmly committed to the elimination of religious intolerance, and the brief passage on Ethiopia in the Special Rapporteur's report should be read in the light of that commitment.

85. She then made certain comments which, she said, represented only a minor digression.

86. Sociological studies showed that it was difficult to determine the degree of the attachment which an individual felt for persons, things or ideas. Just as it was understandable that different forms of love could exist simultaneously in the same person, it was also admitted, for example, that a United States citizen of Mexican origin was deeply attached to his origins and yet at the same time felt himself to be very American. In all societies in the world it was possible to find national and religious groups that expressed their attachment to the group to which they belonged while displaying their fidelity to a common identity factor grouping all sections of society. However, that did not mean that discordant notes were not heard from time to time in such a harmonious whole, sometimes following the intervention of persons who viewed such social harmony as an obstacle to the realization of base objectives. Most of the time it was the developing countries which faced such problems; but the difficult situation in which they found themselves was not understood because judgements were not impartial and recourse was had to a double standard. For some people, in fact, multinational and multireligious societies in the developing countries could exist only under relationships of domination and colonialism.

87. In her delegation's view, that point should be stressed at a time when vigorous efforts were being made to eliminate the scourge of religious intolerance. In conclusion, she thanked the Special Rapporteur once again for the diligence and objectivity with which he continued to perform his duties. The Commission would undoubtedly continue to benefit from his future reports.

88. Mr. NOORANI (India) expressed the hope that the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief adopted by the United Nations in 1981 would be respected throughout the world, since it identified the essential elements of freedom of religion. In that connection, his delegation shared the concerns expressed by the Special Rapporteur in paragraph 109 of his report (E/CN.4/1990/46) with regard to the persistence of alarming infringements of fundamental rights arising out of attacks on freedom of thought, conscience, religion or belief, and in particular the growing number of extra-judicial killings that had allegedly taken place in the context of clashes between religious groups or between such groups and security forces. In paragraph 114 of his report the Special Rapporteur had clearly identified the main obstacles to the implementation of the Declaration, while noting that some progress had already been made. Moreover, the Indian delegation was in favour of the idea, put forward in paragraphs 116-119 of the report, of drawing up an international instrument that would deal more specifically with the elimination of discrimination based on religion. It also associated itself with the Special Rapporteur's appeal to States which had not yet ratified the relevant international instruments to do so.

89. His delegation's position was explained by the fact that secularism was the very basis of India's unity in diversity. The country was deeply attached to the secular ideal, as well as to the rule of law and to the protection of

the universal right to freedom of religion. The country consisted of a whole mosaic of religions, cultures, ethnic groups and races. Whatever their religious denomination or beliefs, the elements which made up Indian society had built together the largest democracy in the world, in which the universally recognized human rights and fundamental freedoms were guaranteed to all without any distinction. The right to profess, propagate and practise a religion was one of the fundamental rights guaranteed by the Indian Constitution, in its articles 25, 26 and 28. The Constitution also recognized, for all religious groups, various rights such as the right to establish institutions for religious and charitable purposes, to manage their own affairs in matters of religion, and to acquire movable and immovable property and to administer it in accordance with the law. Under the Constitution no religious instruction was given in State-financed schools, and religious instruction was not obligatory for persons attending educational establishments recognized or subsidized by the State. Furthermore, everyone was free to practise his religion individually or collectively, in public or in private. Articles 29 and 30 of the Constitution dealt more precisely with the rights of minorities, including religious minorities. Anyone who considered himself to be the victim of a violation of those rights could institute legal proceedings, and any law which violated those rights would be considered to be unconstitutional and void.

90. A secular State was a State in which all religions and all beliefs were placed on the same footing and in which there was no State religion. Furthermore, according to the Indian Constitution, every citizen had a duty to promote harmony and a spirit of fraternity among all the inhabitants of the country, transcending religious, linguistic and regional differences. The Indian Government was endeavouring to promote religious tolerance through many activities and programmes, particularly in the schools. Civil servants were constantly exhorted to display full respect for all religions in the performance of their duties and not to discriminate against persons professing a religion or beliefs other than from their own. In order to secure the effective implementation of the constitutional provisions of more particular concern to minorities, the Government had established a Minorities Commission to ensure that all laws and measures designed to protect minorities, including minority religious groups, were properly implemented. The Minorities Commission's reports were submitted to Parliament for consideration. The Government had announced that special measures to help minorities would be prepared at the next session of Parliament.

91. In a country having over 700 million inhabitants of different religions, the preservation of harmony among religious groups was a difficult task for the authorities responsible for applying the law and maintaining law and order. India being a federal State, responsibility for those matters devolved in the first instance on each constituent State, but the Federal Government could intervene, and had done so, in certain very serious cases. Quite recently, the Indian Government had established a National Integration Council presided over by the Prime Minister of India himself and composed of representatives of all the important political parties and independent public figures.

92. In conclusion, his delegation reaffirmed that the Goverment and people of India were firmly and irrevocably committed to secularism and were convinced that intolerance and discrimination based on religion or belief had no place

in a civilized society. The international community, through the Commission and other United Nations bodies, must intensify its efforts to eradicate the lingering and universally condemned symptoms of intolerance and discord.

93. Mr. BADJI (Senegal) said that his country had always fully participated in the untiring efforts in which the Commission on Human Rights had been engaged for several decades to make freedom of thought and conscience and freedom of religion and belief a reality in the everyday life of contemporary societies and that it had taken an active part in the preparation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief adopted by the General Assembly in 1981.

94. All peace-loving and justice-loving peoples were entitled to expect scrupulous respect for the provisions of the Declaration. Unfortunately, despite substantial improvements in some countries, that ideal was still very distant, and the disturbing situation was clearly illustrated in the Special Rapporteur's report on the subject (E/CN.4/1990/46). The information collected by Mr. d'Almeida Ribeiro led to the regrettable conclusion that intolerance was continuing to claim many victims and that in some cases it was even taking on the proportions of a civil war, thereby constituting a threat to international peace and security. Intolerance was not only having harmful consequences for the exercise of fundamental freedoms and human rights, particularly in the case of minority communities; it was also a factor conducive to the destabilization of the international system and a source of tension and conflict between States. The international community therefore had a duty to do everything it could to put an end to it, but it must also act in a spirit of openness and international co-operation. That was what the Special Rapporteur had done, and he must be encouraged to persevere in that approach in the hope that the climate of confidence and dialogue thus created would help to promote freedom of religion in places where it was still far from being realized.

95. In Senegal, religious tolerance was a daily reality experienced by a people which was 90 per cent Muslim, since it was the expression of a value of traditional African society governed by the principles of solidarity and fraternity. Several provisions of the Constitution of Senegal expressly condemned religious intolerance in all its forms, and the Constitution defined the State of Senegal as a secular Republic in which all citizens were equal before the law without distinction as to origin, race, sex or religion. The leading role of religion was, nevertheless, recognized in the education of young people and in the socio-cultural life of communities, but the secularity of the Republic was considered to be a factor making for balance and civil peace and a guarantee of the exercise of the right to freedom of conscience and of its corollary, freedom of worship.

96. In his delegation's opinion, the Commission should give careful consideration to the possibility of drawing up a more binding international legal instrument on the subject. In the meantime, the efforts being made to interest and educate public opinion at the national and international levels must be continued. Accordingly, his delegation supported the Special Rapporteur's recommendations regarding the need to take advantage of the United Nations advisory services in the field of human rights. Finally, his delegation hoped that the Commission would renew the Special Rapporteur's mandate.

97. Mr. BOHUA XIE (China) said that freedom to profess or not to profess a religion was guaranteed by article 36 of the Constitution of the People's Republic of China and was also stipulated in the Penal Code and other more specific legislation. All religions, including Buddhism, Taoism, Islam and Christianity, could be practised freely throughout the country.

98. That applied to Tibet, an autonomous region of China which enjoyed the same administrative status as a province and most of whose inhabitants practised Tibetan Buddhism. Since the peaceful liberation of Tibet in the early 1950s, the Chinese Government had always attached great importance to respect for the social customs and religious beliefs of the people of the region. As from 1978, it had adopted a whole series of measures to rectify the mistakes committed during the "Cultural Revolution", during which religious freedoms had been flouted. Persecuted religious leaders had been rehabilitated, and the Tibetan branch of the Chinese Buddhist Association had been re-established. The Chinese Government had subsidized the repair and maintenance of many temples and monasteries and had financially helped the Tibetan religious community to open a number of religious institutions. It was determined to continue that policy in accordance with the Chinese Constitution, to endeavour to solve any religious problems that might arise, and to promote the participation of all believers, without exception, in the development of Tibet.

99. His delegation wished, however, to point out that the incidents which had taken place at Lhasa Tibet, in recent years, and which were mentioned in Mr. d'Almeida Ribeiro's report (E/CN.4/1990/46), had no connection whatsoever with religious matters. First, the riots had been organized locally or from abroad by a handful of separatists calling for the independence of Tibet, whose acts of violence were designed solely to split China. Second, the measures taken by the Chinese Government had been aimed only at re-establishing order and at protecting the rights of citizens. The Government had never imposed restrictions on freedom of religion, had not intervened in the religious affairs of the monasteries, and had done nothing to impede the celebration of religious rites. Third, the monks and nuns who had been arrested and tried by the authorities following the incidents had not been arrested and tried because of their religious beliefs but solely because they had participated, in defiance of the Chinese Constitution and other legislation, in activities designed to break up the unity of the motherland. Finally, the allegation in the report that the Chinese Government had sent thousands of policemen to attack Catholics in a village in Hebei province was utterly false.

100. The Chinese Government's position on the question of religion had always been clear. The State respected and protected the right of citizens to freedom of religion, but it did not permit people to make use of religious beliefs in order to engage in activities aimed at splitting the country and disturbing law and order.

The summary record of the second part of the meeting appears as document E/CN.4/1990/SR.22/Add.1.

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Forty-sixth session

SUMMARY RECORD OF THE SECOND PART* OF THE 22nd MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 13 February 1990, at 6 p.m.

Chairman: Mr. DITCHEV (Bulgaria)

later: Ms. SINEGIORGIS (Ethiopia)
Mrs. QUISUMBING (Philippines)

CONTENTS

Implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (continued)

* The summary record of the first part of the meeting appears as document E/CN.4/1990/SR.22.

This record is subject to correction.

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GE.90-11917/1681B

IMPLEMENTATION OF THE DECLARATION ON THE ELIMINATION OF ALL FORMS OF INTOLERANCE AND OF DISCRIMINATION BASED ON RELIGION OR BELIEF (agenda item 23) (continued) (E/CN.4/1990/46, E/CN.4/1990/NGO/5 and E/CN.4/Sub.2/1989/32)

1. Mr. ALDORI (Iraq) said that his Government was convinced that the elimination of religious intolerance and of religious discrimination would contribute to the social stability and internal security of all countries. The existence of religious intolerance anywhere in the world was a threat to international peace and security.

2. Iraq was by tradition a country of religious tolerance, in which many religions had coexisted peacefully for thousands of years. Although it was an Arabo-Islamic State in which Muslims represented some 96 per cent of the population, it nevertheless respected the concept of religious diversity, and the fact that there was a large Muslim majority had never resulted in the imposition of any constraints on those who professed other faiths. Freedom of religion was guaranteed, first, by the precepts of the Koran, and secondly by the State's policy of non-interference in religious matters.

3. Article 19 of Iraq's Constitution provided that all citizens were equal before the law, without distinction as to sex, race, language, social origins or religion. Article 25 guaranteed freedom of conscience and religion, as well as freedom to practise religious observances, for all. That right was enshrined in Iraqi law, which guaranteed religious freedom for as many as 17 different religious groups in the country. The law penalized any attacks upon the beliefs of such groups, interference with the observance of their religious rites, or desecration of any symbols they held sacred. In particular, the law punished the printing and distribution of any publication which defamed a sacred book, or held up to ridicule any of the precepts it contained. Iraqi law guaranteed the right to religious education, including education in faiths other than that of Islam, as well as the right to disseminate religious literature both inside and outside the country. The right to observe religious ceremonies in connection with such matters as marriage, divorce or inheritance was also recognized.

4. It was his Government's consistent policy, in accordance with both the letter and the spirit of the Declaration, to co-operate in eliminating all forms of religious intolerance and religious discrimination, and to protect the religious freedom of its citizens, both individually and collectively.

5. Ms. Sinegiorgis (Ethiopia) took the Chair.

6. Mrs. RUESTA (Venezuela) said that her Government complied with the provisions of the Declaration, and had taken steps to strengthen its legislative guarantees against possible violations of religious freedom. It believed that everyone had the right to profess his faith, and should never be compelled to act otherwise than in accordance with his conscience, within the limits established by the law for believers and non-believers alike.

7. Intolerance led to acts of discrimination such as the repression of religious practices, the violation of holy places, the banning of religious publications and festivals, and, in extreme cases, deprivation of the elementary right to profess one's faith. Throughout history, religious intolerance had generated tragic wars and interminable conflicts.

8. Tolerance, on the other hand, ensured that individuals and communities could coexist peacefully, accepting and respecting differences of belief and custom. Such tolerance should be promoted by the State and enshrined in legislation which guaranteed the rights of believers and penalized discrimination. Religious tolerance strengthened the foundations of peace and understanding.

9. Mr. van Boven's working paper (E/CN.4/Sub.2/1989/32) showed that freedom of religion or belief was already protected by mandatory standards in a number of existing international instruments. However, despite the existence of those standards, it was noted as a fact by the Special Rapporteur of the Commission in his report (E/CN.4/1990/46, para. 117) that the problem of intolerance and discrimination still persisted. Consequently, her delegation had consistently supported all recommendations calculated to lead to the elimination of violations of the Declaration and favoured the development of a possible new human rights instrument such as that proposed by the Special Rapporteur.

10. On the other hand, she wondered whether the obstacles to the implementation of the Declaration listed by the Special Rapporteur in paragraph 114 of his report might not likewise render any new instrument ineffective. She agreed with Mr. van Boven (para. 10 of his working paper) that, when deciding whether to draft a new international instrument, a policy organ should take a number of considerations into account. In the first place, the process of preparing and drafting a new instrument and the ensuing stages of its adoption and acceptance could never serve as an excuse for failure to implement already existing standards. Secondly, any new binding instrument should raise the level of protection and build on the standards already adopted. Thirdly, the drafters of such an instrument should take into account the nature and range of problems identified and analysed by the Special Rapporteur if the future binding instrument was to gain broad international acceptance, particularly on the part of States which would have to undertake legal obligations. Moreover, incidents of religious intolerance and discrimination were attributable not only to Governments, but also to movements, groups and institutions based on religion or belief.

11. As far as the nature of any new instrument was concerned, her delegation was able on the whole to endorse Mr. van Boven's analysis of the possible options (paras. 14 to 17 of his working paper). It had noted, in particular, his interesting suggestion that, since the creation of new implementation machinery should not be taken for granted in view of the problems encountered by the existing treaty bodies, a single consolidated implementation system might be established for all United Nations human rights treaties, along the lines of the supervisory machinery functioning in the framework of the International Labour Organisation (ILO). Such a unified system might prove all the more advantageous in that the right to freedom of thought, conscience and religion was closely connected with other human rights.

12. The two documents complemented one another, and both deserved careful study if the Commission was to reach conclusions that would enable States to take effective measures to eradicate violations of so fundamental a human right. For its part, her Government would support whatever solution was found most appropriate to achieve that end.

13. Mr. GYURIS (Hungary) said his delegation was seriously concerned that, despite the progress being made in respect for human rights in many parts of the world, grave violations of one of the most fundamental of all rights, freedom of thought, conscience and religion, still occurred.

14. As the Special Rapporteur rightly pointed out in his report, religious intolerance and discrimination were often inseparable from the violations of other human rights (E/CN.4/1990/46, para. 106). It was an unfortunate fact that religious intolerance, extremism and fanaticism were often the root causes of regional conflicts, rendering them virtually insoluble. It was because the denial of the fundamental right of religious freedom led inevitably to the destruction of traditional values and cultural identity that his Government attached such importance to decisive international action to combat violations of the rights of national, ethnic and religious minorities.

15. Among all the violations of freedom of conscience, State interference in the spiritual lives of citi-ens deserved the strongest condemnation. After many decades of a relatively liberal - but nevertheless restrictive - policy towards the Churches, his Government had decided that, for the future, its only role should be to protect religious freedoms by a system of legal guarantees. Accordingly, the State Office for Religious Affairs had been abolished, and church investments were no longer subject to control. With parental consent, schoolchildren were free to take part in religious education, and there were no restrictions on the publishing of religious literature. A recent law provided for the complete separation of Church and State: however, that law did not imply that the Churches would no longer be working in co-operation with the State for the benefit of society as a whole; on the contrary, the Government believed that they had an important role to play in consolidating social and moral values and in educating the future generations.

16. Among the new religious freedoms recently introduced in Hungary were: the right of conscientious objectors to perform service in the community as an alternative to military service; the right of all sects and denominations to form organizations and communities; the re-establishment of a wide variety of religious orders that had formerly been banned; and the annulment of sentences passed on members of the clergy following "show trials". Diplomatic relations had been re-established between Hungary and the Holy See, with a view to promoting a constructive dialogue between the Government and the Catholic Church, which represented the majority of Hungary's believers.

17. He assured the Commission that his delegation was willing to participate in any international action designed to eliminate intolerance and discrimination based on religion or belief.

18. Mr. DUSEK (Observer for Czechoslovakia) said the recent important changes that had taken place in Czechoslovakia, including the abolition of the monopoly of Marxist-Leninist ideology enshrined in the former Constitution, had meant that the Government was currently in a better position to comply with its obligations under the Declaration. Henceforth there were to be no restrictions on religious belief or on the activities of Churches or religious groups, nor was any discrimination to be practised against believers. The law whereby State approval was required for the performance of church activities had been annulled, although the State still provided the Churches and religious societies with financial support.

19. New legislation was currently in preparation, with the help of church representatives, which would guarantee the right to profess religious belief and to form religious groups. In future, religious orders were to be allowed to operate freely: indeed, the Government greatly appreciated their assistance in the field of health and the social services. Churches and religious groups would have free access to the media, and special boards had been appointed to organize the broadcasting of religious programmes.

20. In the future, his delegation would be in a position to support even more enthusiastically than in the past the development of a new international instrument with mandatory provisions against religious intolerance.

21. Mr. IBRAHIM (Observer for Indonesia) said that freedom of religion was one of the most basic of human rights; it was fundamental to human dignity, as well as being highly personal and private in nature. Any society that included believers of different faiths should not only refrain from any attempt to impose one faith on another, but should work actively to promote greater mutual harmony and tolerance.

22. The Special Rapporteur, in carrying out the task entrusted to him by the Commission in resolution 196/20, should not have confined himself to uncovering shortcomings in the implementation of the Declaration, but should also have tried to identify any positive efforts being made to promote greater harmony in relations between different religious denominations as well as in relations between religion and the State. It was by developing and encouraging such efforts that all religions could be given an equal opportunity to flourish.

23. Indonesia was a nation composed of hundreds of ethnic groups dispersed throughout the archipelago, and religion had always been strongly rooted in Indonesian history and culture. Article 29 of the Constitution, while providing that the State should be based on belief in one Supreme Being, also provided that the State should guarantee every citizen the freedom to adhere to his own religion.

24. His Government made every effort to protect the rights of its citizens to practise the religion of their choice, and actively encouraged religious activities. As part of the Five-Year National Development Plan, it would be providing assistance to religious communities, notably by the reconstruction of places of worship. In the belief that religious intolerance often derived from ignorance, religious education has been made compulsory from primary school up to university level. His Government saw the guarantee of freedom of religion as a means of preventing conflicts between religious communities, or between such communities and the Government. Despite the fact that some 90 per cent of Indonesians were Muslims, the terms "majority religion" and "minority religion" were not used, since citizens regarded themselves first and foremost as Indonesians, irrespective of religious belief.

25. Freedom of thought, conscience and religion was not only important for social harmony within a single country, but also contributed to the attainment of the goals of peace, social justice and amity throughout the world.

26. Miss CHAALAN (Observer for the Syrian Arab Republic) said that Syria had always attached great importance to religious tolerance, at both the national and international levels. It had participated in the drafting of the United Nations Charter and the Universal Declaration of Human Rights, and had adhered to the two International Covenants on Human Rights and other international human rights instruments.

27. Syrian legislation guaranteed the freedom and equality of all its citizens, whatever their religious or ethnic affiliations. Under article 35 of the Constitution, the State undertook to safeguard the citizen's right to practise the religion of his choice, while incitement to any form of religious extremism or racism was considered a serious offence punishable by imprisonment from six months to six years under the Penal Code. Syria was proud of the fact that, as a result of those provisions, no racial or religious intolerance or discrimination existed in the country. In accordance with Arab traditions, all citizens - whether Muslims, Christians or Jews - were treated as equals.

28. Unfortunately, the Arab region, which had been the cradle of the three great revealed religions, was suffering the effects of the hatred engendered by Israel's aggressive and expansionist policies. In order to achieve the goal of Zionist supremacy through the establishment of a Jewish State based on Zionist principles, Israel had resorted to massacres and other acts of violence against the Palestinian people - massacres which had been condemned by many eminent Jewish personalities, including Albert Einstein. In the pursuit of those policies, Israel had used the same Nazi methods which had caused the sufferings of so many millions of Jews in Europe during the Second World War, and had done so without any regard for international law or for the opinion of the international community as expressed in numerous United Nations resolutions.

29. Although the courageous Palestinian uprising, together with recent international developments, had offered hopes of a just and lasting peace in the Middle East, those hopes had been dealt a serious blow by the Israeli Government's declared intention of continuing to colonize Arab territories, in order to provide more "living space" for Jewish émigrés, notably from the Soviet Union. It was that policy which had led Israel to reject recent peace initiatives, and to continue its campaign of oppression and terrorism against the Palestinians in the occupied territories. That policy constituted a flagrant violation of international law, and notably of the provisions of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religious Belief.

30. She failed to understand how international opinion could find it acceptable that members of the Jewish community, prompted by Zionist propaganda, should leave the lands where they had lived for hundreds of years in order to settle on Palestinian territory, thereby dispossessing the original inhabitants of that territory. It was not as if the immigrants had been the victims of injustice in their countries of origin: on the contrary, they had enjoyed the same rights as other citizens.

31. The policy of the United States in closing its own doors to Jewish immigrants, while at the same time encouraging continued Jewish immigration to Israel, seemed to be designed to help Israel realize its strategy. It was, in fact, comparable to the Balfour Declaration, whereby one nation publicly

undertook to hand over to a second nation the territory of a third. Her delegation wondered why the application of such policies was always at the expense of the Palestinian people, and of the people of the neighbouring Arab countries. It would have been more honourable of the United States, which constantly invoked the principles of democracy and of respect for human rights, to have spoken on behalf of the right of the Palestinian refugees to recover their homeland, a right recognized in a whole series of international instruments.

32. As was constantly being pointed out in various international forums, the current situation in the Middle East was extremely dangerous, and no lasting peace could be achieved unless and until Israel put an end to its racist and expansionist policies and recognized the right of the Palestinian people to self-determination through the establishment, on their own territory, of an independent Palestinian State.

33. Mrs. GABR (Observer for Egypt) said her delegation fully supported the view expressed in Mr. van Boven's working paper (E/CN.4/Sub.2/1989/32) that the scope of any new instrument should be clearly defined, and careful research done on the precise meaning of existing standards, before any actual drafting was embarked on.

34. The multiplicity of existing international instruments on a question of such vital concern for millions was at the same time a strength and a weakness. On the one hand, it reflected growing international concern that the principle of freedom of thought, conscience and religion should be publicly affirmed. On the other hand, it explained why the international community had so far failed to combine those numerous texts into a single instrument which would combine an enunciation of principles with specific measures for their implementation. She hoped that the practical provisions already contained in the Declaration, together with the work being carried out by the Sub-Commission on Prevention of Discrimination and Protection of Minorities, would help to establish an effective mechanism for guaranteeing respect for religious freedoms. The report of the Special Rapporteur (E/CN.4/1990/46) was a positive step in that direction, and the recommendations contained in its chapter IV deserved careful study.

35. In that connection, a number of important considerations should be borne in mind. The guaranteeing of religious freedom should be seen as part of a general process of economic and social development which would increase awareness of individual rights and obligations and create a favourable atmosphere for a rational dialogue between persons of different faiths. It was also important to guarantee for all citizens the opportunity for full participation in political life, since that was the most effective way of guaranteeing freedom of thought, conscience and belief by peaceful means.

36. Article 40 of the Egyptian Constitution provided that all citizens were equal before the law, with no discrimination on the basis of sex, origins, language, religion or belief. Under article 46, the State guaranteed religious freedom, and also guaranteed the right to religious observance.

37. Egypt had always done its utmost to co-operate with the Special Rapporteur in his investigations, as was shown in paragraphs 40-41 of the report. However, it would seem that certain other countries were ignorant of one of the most basic principles of religious tolerance, namely respect for

the right to religious observance. Paragraph 54 of the report stated that the practice of religion had been curtailed by various measures taken by the Israeli Defence Forces in the territories occupied by Israel since 1967. In the course of the past year alone, there had been cases in those territories in which not only Muslims but also Armenians, Catholics and members of the Greek Orthodox Church had been prevented from worshipping.

38. Human rights and freedoms formed a single entity, and respect for freedom of thought, conscience and religion was only a part of respect for human freedoms in the widest sense. As such, it could be seen as a measure of the level of civilization attained by the society concerned.

39. Mr. Ditchev (Bulgaria) resumed the Chair.

40. Mr. VIGNY (Observer for Switzerland) said his Government considered freedom of religion to be one of the most important of human rights, since it was essential to the proper functioning of a truly democratic and pluralist society. Respect for religious freedom contributed, perhaps more than respect for other human rights, to international peace and security. Accordingly, every State should do all it could to ensure that the Declaration was effectively implemented, not only on its own territory, but also throughout the world.

41. It was noteworthy that the Final Document of the 1989 Vienna Meeting pursuant to the Conference on Security and Co-operation in Europe, had listed as many as 11 detailed measures designed to guarantee greater respect for freedom to profess and practise religion or belief. There was no doubt that the Vienna Document had helped to strengthen the positive impact produced by the new policy of openness and transparency in the field of human rights currently being applied in Central and Eastern Europe.

42. His Government had been concerned to note from the report of the Special Rapporteur that intolerance and discrimination based on religion or belief still persisted in many parts of the world, and that men and women were still being persecuted, imprisoned, tortured and even killed in the name of religion. They included members of religious minorities, persons who had publicly abandoned one religion and embraced another, and even persons who had been converted to atheism.

43. In 1989, the Special Rapporteur had brought to the attention of 29 Governments situations which seemed to indicate a departure from the provisions of the Declaration. Of those 29, 11 States - Afghanistan, Burundi, China, Ethiopia, Iran, Israel, Mauritania, Mexico, Nepal, Somalia and Zaire - had not replied by 20 December 1989. He appealed to those States to engage in a dialogue with the Special Rapporteur as soon as possible: the fact that the latter had transmitted to them allegations regarding their territories in no way implied any accusation or value-judgement on his part, but rather a request for clarification, with a view to finding solutions to a problem involving the most fundamental of human rights. Even if it were found that violations of the Declaration had occurred, it would still be in the interests of the State concerned to co-operate with the Special Rapporteur, since the Commission would see such co-operation as evidence of its willingness to combat all forms of intolerance and discrimination.

44. Of the 18 States which had replied to the Special Rapporteur, several had quoted at length from constitutional or legislative provisions relating to religious freedom, either giving no detailed response to the allegations made or else simply dismissing them out of hand as false and slanderous. The States in question should realize that such an approach was totally counter-productive, since readers of the report would conclude, rightly or wrongly, that those allegations must be well-founded.

45. He supported most of the report's conclusions and recommendations. In particular, he shared the concern expressed at the restrictions imposed by certain Governments on the religious practices of persons holding beliefs different from those of the majority. Some of those Governments permitted such persons to practise their religion only in their own homes: in other words, they prohibited them from building places of worship, while they themselves claimed the right to build their own places of worship in the countries of origin of the same persons.

46. He was also concerned about the report's evidence of religious intolerance, as shown in the sectarian and intransigent attitudes of some religious communities whose fanatical opinions derived from a literal and dogmatic interpretation of certain religious precepts. Such attitudes were not only prejudicial to the rights of religious minorities and to human rights in general, but also had a destabilizing effect on international relations, by creating tensions and conflicts between States.

47. He was also concerned to note from paragraph 110 of the report that many of the newer sects and religious associations seemed to be engaging in activities which were not always legal. That was a problem which should be investigated by the Commission, in view of the fact that article 1, paragraph 3, of the Declaration made clear that freedom to manifest one's religion was subject to certain limitations prescribed by law.

48. On the subject of the establishment of a new binding international instrument, he supported the conclusion in Mr. van Boven's working paper (E/CN.4/Sub.2/1989/32) that it should not be taken for granted and should be undertaken only after solid preparatory work had been done on the basis of sound research and careful analysis.

49. The work of the Special Rapporteur was a very important element in the mechanism for implementation of the Declaration, and his delegation would like to be a sponsor of the draft resolution recommending that his mandate be renewed for a further two years.

50. Religious intolerance was often the result of ignorance, and both Governments and institutions had an important role to play in making the public better informed about the basic principles of the Declaration. For its part, his Government had undertaken to publish the text of the Declaration in the German, French and Italian language versions.

51. Mr. GARAI (World Union for Progressive Judaism) said the spectacle of religious leaders calling for repressive measures against those who did not share their faith, while also clamouring for the assassination of members of their own faith who had dared to defy their injunctions, would seem to cast doubt on the positive influence of religious beliefs in today's world. It was

the actions of such leaders, not the religions which they alleged they were defending, which deserved condemnation. It should be borne in mind also that there were still countries in which any form of religion was considered as superstition, and where all believers were considered as sick persons, in need of treatment. The danger lay not in religion itself, but in religious extremism and the question arose whether the State was justified in taking correspondingly extreme measures to deal with that threat.

52. Although religious freedom was guaranteed under a number of human rights instruments, that freedom was usually declared to be subject to any limitations prescribed by law that were necessary to protect public order. Unfortunately, that meant that States were able to use their laws as an excuse for trampling underfoot the freedom concerned. The time had, perhaps, come to recognize that, since all human beings were born free and equal in dignity and rights, they were all entitled to enjoy unrestricted freedom of conscience. The duty to act towards others in a spirit of brotherhood that followed from the granting of that freedom would be the best defence against any unduly expansionist tendency on the part of particular religions. He urged the Commission to amend the international human rights instruments to take account of those considerations.

53. Mr. BARSH (Four Directions Council) suggested that, in the future, the Special Rapporteur should be more critical of Government replies, and should make specific recommendations to the Commission for action to be taken to deal with specific situations.

54. He could not agree, however, that there was any need for a binding international convention on the subject of religious intolerance. The number of international instruments and monitoring mechanisms for the protection of the rights of particular groups - women, children, migrant workers, the disabled, and so on - was constantly growing, with the result that concern for human rights was becoming increasingly fragmented, and the International Bill of Human Rights was in danger of disappearing under a mountain of paper.

55. Two arguments tended to be made for the development of separate instruments and mechanisms to cover particular groups. The first was that, since the group concerned was especially vulnerable to violations of its rights, its situation merited especially intensive scrutiny. The second argument was that existing human rights standards applicable to the group were too general or too imprecise. Those arguments raised important policy questions. The first was whether it was not possible to provide for special scrutiny within the framework of existing instruments and monitoring mechanisms. Bodies such as the Committee on Economic, Social and Cultural Rights were already responsible for the collection of information on vulnerable sectors of the population. Secondly, the question arose why it was necessary to create new mechanisms for explanatory or interpretative declarations, instead of addressing those declarations to existing monitoring bodies, such as the Human Rights Committee.

56. The real answer to both those questions was that the existing human rights mechanisms were not considered to be very effective. What needed to be done was not to create yet more mechanisms, but rather to discover why the existing ones were not functioning as they should. A proliferation of human rights instruments worked against universal compliance with human rights obligations,

because different States would tend to ratify different conventions. In addition, the proliferation of instruments dealing with particular sectors of society made it harder to understand the root causes of conflict, which cut across boundaries of sex, age and ethnic origin. In the same way, a proliferation of monitoring bodies tended to divide human rights work into competing domains, and worked against the realization of common interests.

57. A third argument advanced in favour of the creation of new instruments was that certain groups - notably minorities and indigenous peoples - had a distinct collective identity and collective rights, which could not be protected within the existing framework of human rights standards. While the elaboration of special standards was justifiable in the case of such groups, it should be recognized that most claims for autonomy and distinct political identity reflected the more general problem of a lack of genuine democracy in the States concerned. Before drafting any more conventions, it would be wise to examine the broader question of collective identity, which was equally relevant for economic, social, racial, ethnic and religious groups. The logical focus for that effort was the Declaration on the Right to Development.

58. He did not think much would be gained by restating the existing Declaration - which did not differ substantially from article 18 of the International Covenant on Civil and Political Rights - in the form of a convention. Nor would the setting up of another treaty body and reporting system make any significant contribution to the prevention of intolerance. The specific problems identified by the Special Rapporteur as arising from complex historical processes were problems common to all groups, not merely religious groups, and they should be addressed in a broader context.

59. Mr. ROSSI (International Association for the Defence of Religious Liberty) said his association strongly favoured the creation of a new international instrument guaranteeing freedom of religion and belief. The list of specific freedoms contained in article 6 of the Declaration was not exhaustive: the new instrument should include, for example, the rights and freedoms of religious communities, recognized in the Final Document of the 1989 Vienna Meeting pursuant to the Conference on Security and Co-operation in Europe.

60. The report submitted by the Special Rapporteur (E/CN.4/1990/46) clearly demonstrated that it was not sufficient to recognize the principle of freedom of thought, conscience and religion: there was a need actively to combat religious intolerance, which had led to the imprisonment or death of hundreds of thousands of men and women. In particular, religious fanaticism was a source of tension and conflict between peoples and a threat to international stability. The Commission should concern itself less with the possible disapproval of Governments which were violating human rights, and more with the fate of the victims of such violations.

61. Success in guaranteeing universal respect for so fundamental a human right as freedom of religion would represent a major service to mankind.

62. Ms. ENGEL (Human Rights Advocates) said she wished to draw the Commission's attention to the status of the implementation of the Declaration in Tibet. Article 1 of the Declaration guaranteed the freedom to manifest religion or belief in worship, observance, practice and teaching: however,

the People's Republic of China was stifling that freedom by its control of religious institutions, practices and education. Other human rights had also been violated in Tibet, notably the right to life and security of the person, the right to free expression and opinion, and the right to self-determination.

63. Much had been heard about the recent renovation, with government support, of Buddhist monasteries and temples in Tibet. However, not only did thousands of monasteries originally destroyed by the Chinese Government remain unrestored, but restrictions imposed by the Government continued to hamper reconstruction efforts, both public and private. According to paragraph 37 of the Special Rapporteur's report, no monasteries might be renovated without the Government's approval, and no donations for monasteries might be requested or given.

64. China was also guilty of infringing the right to religious worship provided for in article 6 of the Declaration, without which the restoration of religious buildings was meaningless. The performance of religious rituals in monasteries had been restricted by the introduction of political indoctrination sessions, and by the presence of armed troops at places of worship. In addition, many Tibetan monks and nuns had been killed, injured or imprisoned following peaceful demonstrations.

65. Article 5 of the Declaration provided that every child enjoyed the right of access to religious education: there again the Chinese Government had imposed severe restrictions. No new monks had been admitted to monasteries since martial law was declared in Tibet in March 1989: as a result, each monastery had large numbers of unofficial monks, who were not allowed to attend classes or participate in monastic debates.

66. The secular as well as the religious education of Tibetan children was threatened by such restrictions, since for many the monasteries offered their only opportunity of learning to read and write.

67. She urged the Commission to examine those allegations of infringements of religious freedoms in Tibet, particularly in the light of the Special Rapporteur's findings on the relation between such infringements and abuses of other human rights, and appealed to the Government of China to respect the fundamental right of all Tibetans freely to practise their religion.

68. Mr. PHILIPS (Minority Rights Group) said that conflicts surrounding religious minorities were potentially destabilizing for the progress achieved in international peace and security.

69. The ethnic discrimination and religious intolerance experienced by many minority groups in the Balkans had deep-rooted historical causes. Such attitudes were exacerbated by the fact that relatively new nation-States lacked the experience and confidence to respond positively to ethnic and religious diversity. However, the political changes currently occurring in Eastern Europe offered a unique opportunity to resolve such problems.

70. Whereas, in 1989, over 300,000 Muslim ethnic Turks had fled Bulgaria, more than 170,000 had since returned following the improvement in the situation in the country. Ethnic Turks and other Muslims had been granted the right to practise their religion, to speak Turkish, and to use their Turkish and Islamic

names. Those rights had not been won without a struggle, and he urged the Bulgarian Government to seek advice from the United Nations to ensure that the rights of religious minorities were guaranteed not only in theory under the new Constitution but also in practice.

71. Even more dramatic changes had taken place in Romania, where the ethnic Hungarian minority, together with other minority groups, had long suffered official persecution. He invited the Commission to congratulate Romania on its recent Declaration of the Rights of Minorities, and to welcome its promised introduction of new laws to protect those rights.

72. In Greece, the ethnic Turkish minority inhabiting Western Thrace, and accounting for one third of the population of the region, faced continuing restrictions on its civil rights, while Turkey, for its part, was still denying freedom of language, religion, education, property and residence to long-established minority communities, including Kurds and ethnic Greeks. He urged both the Greek and Turkish Governments to seek the good offices of the United Nations Secretary-General to initiate a dialogue that would resolve those conflicts.

73. The Group was also concerned at the Albanian Government's continued policy of repression towards its Greek minority, which suffered persecution partly because of its ethnic and linguistic identity and partly because of its religious beliefs. He urged all Governments, particularly those of Eastern Europe which had diplomatic representation in Albania, to express their deep concern to the Albanian Government.

74. The Commission should offer to assist all States in the Balkans to develop laws and constitutions designed to safeguard religious freedoms. The Special Rapporteur should continue to investigate reports of human rights violations in the region, and should encourage dialogue between Governments. Lastly, the Commission should congratulate Bulgaria and Romania on their recent adoption of measures to protect the rights of minorities.

75. Ms. FATIQ (Baha'i International Community) said she agreed with the Special Rapporteur that the persistence of the problem of religious intolerance called for the preparation of a new international instrument specifically designed to resolve it (E/CN.4/1990/46, para. 117). During the drafting process, consideration should be given to the setting up of an implementation mechanism, such as those existing under other human rights treaty-based régimes. For example, a committee on intolerance based on religion or belief, responsible for receiving communications from those whose rights had been violated, would greatly enhance the new convention's impact.

76. Legal measures notwithstanding, she believed that the root causes of religious friction and tension could be removed only by better public education. A study of the teachings of all the world's great religions would lead to a recognition of their common source, and to an understanding that there were no grounds for rivalries or disputes between the different religious communities. She welcomed the Special Rapporteur's recommendation that religious groups should play an active role in promoting religious tolerance by initiating dialogues which would emphasize the similarities, rather than the differences between religions. She also supported the suggestion that briefings be organized with the collaboration of UNESCO to make the principles set forth in the Declaration more widely known.

77. Mr. LACK (Co-ordinating Board of Jewish Organizations and World Jewish Congress) said the right to freedom of thought, conscience and belief lay at the core of all human rights, and amply justified the setting up of a separate instrument of a binding nature, with its own monitoring body. It was difficult to think of another human rights instrument which had received so much prior consideration and scrutiny by different United Nations bodies over a period of years.

78. He fully supported the Special Rapporteur's conclusion in his report that the persistence of the problem of religious intolerance called for the preparation of a new international instrument (para. 117), and also supported his recommendation that a working group be set up for that purpose (para. 118). At the same time, he endorsed Mr. van Boven's view that any such instrument should build on the standards already elaborated by the international community (E/CN.4/Sub.2/1989/32, para. 10).

79. There was no greater destabilizing force than religious intolerance, and there could be no sustainable quality of life in any society which denied its members enjoyment of the right to religious freedom. It was gratifying to know that in several countries of Eastern Europe, national standards were currently being revised to reflect the fundamental importance of that right.

80. His organization was ready to join with other non-governmental organizations in an attempt to devise suitable implementation machinery for the new instrument, which would take into account all the complexities and sensitivities involved, as well as the obligations already undertaken by States parties in relation to other human rights and fundamental freedoms. It was important that such machinery should avoid duplicating the work of other human rights treaty bodies. In due course, it would be necessary to set up a single consolidated implementation system (E/CN.4/Sub.2/1989/32, para. 17), consistent with reasonable demands on the States parties, and with the limitations of human, financial and material resources.

81. The question had been raised whether, in view of the competing demands in other human rights fields, a new instrument with its own monitoring and supervisory body was really necessary. As he saw it, the answer was an emphatic affirmative. There was a point beyond which further procrastination would only jeopardize the Commission's credibility, and would give the impression that it lacked the political will to act on the recommendations of its own special rapporteur. In addition, postponing action would be tantamount to adopting some kind of ban on the establishment of any new instruments, a ban which was clearly unjustified in view of the urgent need to combat the continuing and increasing phenomenon of religious intolerance throughout the world. It should be remembered that the right in question was one that admitted of no derogation, even in time of national emergency or a state of siege.

82. The time to begin work on drafting a new instrument was long overdue. The international climate for embarking on such an exercise had never been more propitious, but there was no guarantee that it would remain so. He strongly urged the Commission to adopt the Special Rapporteur's recommendation.

83. Mrs. Quisumbing (Philippines) took the Chair.

84. Mr. KARUNAN (Pax Romana) said he was deeply concerned to note from the Special Rapporteur's report that infringements of the rights defined in the Declaration seemed to persist in most regions of the world. A bill had recently been introduced in Singapore prohibiting the activities of religious institutions or groups, on the grounds that they were likely to heighten political and religious tensions. The bill, while claiming to promote religious harmony, in fact constituted a direct interference in the work of church leaders and in the life of the Christian community as a whole. In that connection, he wished to bring to the Commission's attention once again the case of Vincent Cheng, Secretary of the Catholic Justice and Peace Commission, who was still being held in detention.

85. The situation in El Salvador also continued to give rise for concern. Despite world-wide indignation following the murder of six Jesuit priests in that country, the Jesuit community in the refugee centre known as "El Despertar" in San Salvador had recently been threatened for the fourth time by members of the armed forces.

86. He urged the Commission to extend the mandate of the Special Rapporteur to enable him to update the information contained in his report and to make further inquiries into cases such as the two just mentioned.

87. Ms. SLESZYNSKA (Christian Democratic International) said that the profound changes that had recently taken place in Eastern Europe had opened the way to reconciliation between government authorities and the Churches. That reconciliation had helped to ensure greater freedom of religious observance, to reduce government interference in church affairs, and to end the professional and social discrimination that had been practised against believers. The right of the Churches to establish and maintain charitable, humanitarian, medical, social or cultural institutions, as well as their right to have access to the media, had been recognized. Only the right to establish church schools - a right which had been non-existent until 1989 - was as yet unrealized, but there were great hopes that 1990 would see further advances in various fields relating to religious freedom.

88. In China, on the contrary, freedom of thought, conscience and belief existed in theory only, and innumerable infringements and violations occurred in practice. Churches loyal to the Government were permitted to pursue certain activities, but only within the walls of their own places of worship, and only on condition that they were recognized by the State. The Catholic and Protestant Churches in China were singled out as particular targets for repression, and many persons had been arrested and assemblies broken up in the course of 1989. No progress had been achieved in the field of religious rights in Myanmar, Viet Nam or the Democratic People's Republic of Korea. In Albania, the authorities continued to ban any kind of religious life and to impose atheism on the entire population.

89. The fundamental right to practise the religion of one's choice was not respected in Saudi Arabia. Only the Muslim faith was authorized, and no other religion could be practised, even in private. In Iran, all the Baha'i places of worship had been confiscated.

90. In Turkey, minority groups persecuted by local Muslim communities had been threatened with extinction, and forced to emigrate. In many Muslim countries, change of religion was prohibited by law. An increasing number of countries

were making Islam the State religion, and were replacing existing civil and penal codes by the Shariah, application of which tended to marginalize other religious groups, who were then regarded as second-class citizens.

91. In Malaysia, a recent decree banned non-Muslims from using 25 words and 10 expressions which were deemed to belong exclusively to Islam, and fines or even prison sentences were imposed on non-Muslims who ventured to speak about their faith in the presence of a Muslim. In Egypt, converted Muslims were still in prison and hundreds of requests for authorization to build Coptic churches had been rejected by the Government.

92. In India, violent sectarian clashes between Hindus and Muslims and Hindus and Sikhs had occurred in 1989. In Nepal, where Hinduism was the State religion, a number of converts to Christianity were currently in prison.

93. Thus, while 1989 had seen marked advances in religious freedom in Europe, there had been no progress in China or neighbouring Asian countries, and the situation had worsened throughout the Muslim world. The Commission should devote particular attention to the four countries which had shown themselves most markedly lacking in respect for religious freedoms, namely Albania, China, Nepal and Saudi Arabia.

The meeting rose at 9 p.m.